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House Zealots Serve Half-Baked Evidence

Headed yet of the Little League Baseball Defense Act? How about the Girl Scout Protection bill?

The House has passed both of them—under different names, for sure, but as part of the corporate-inspired drive to enact federal legislation to make the civil justice system safer for the makers and sellers of dangerous products, incompetent doctors, and those members of the business and political community who equate tort reform with villainizing trial lawyers.

In the House debate to reduce the number of lawsuits, no deceptions or shards of disinformation about the trial bar were held to be too wild. In media buys and speeches on the House floor, the Girl Scouts were depicted as hapless victims of frivolous lawsuit abuse. To pay the cost of liability premiums, mountains of Thin Mints and Samoas—87,000 boxes popped up as the favored number—must be sold.

Over on the base paths, it was claimed that Little Leaguers could be permanently benched if money-mongering trial lawyers are not thwarted. In print and broadcast ads—paid for by the Chamber of Commerce and insurance interests, among others—child actors dressed as Little Leaguers were used to beg Congress for protection lest the “season end in a lawsuit.”

Absent hard information, soft nonsense prevailed. The Girl Scout cookie ads were half-baked, which matched the half-cocked statement of Rep. Jon Christensen, a first-term Omaha Republican and a 1989 graduate of the South Texas College of Law: The Girl Scouts have “been beset by predatory lawyers looking for anybody with pockets to pick.”

Earning a merit badge for chasing lies, a Scout official told the Wall Street Journal: “It is not true at all that we have been barraged with frivolous lawsuits. That is absolutely not the case.” The national organization, which takes no position on the tort issue, told the Chamber of Commerce and fellow connivers to lay off the ads.

Evidence is thin that children are being denied Little League baseball because trial lawyers are ruining the fun. A Lexis/Nexis database search by a consumer group found only two tort suits that led to compensation for injuries: \$10,000 and \$25,000, both settled out of court. One of the most publicized

instances in the past 20 years—parents successfully forcing the Little League to allow girls to play—was not a tort case.

Another ad campaign based on deceit involves the McDonald's Corp. hot coffee case. As a result of constant repetition and ridicule, the \$2.9 million award to a severely burned woman is now embedded in the public consciousness, evoking sympathy for the seemingly beleaguered McDonald's. The ignored facts include a court-ordered 75 percent reduction of the award, that the woman's burns were real and stood up in court, and that McDonald's had received at least 700 complaints about the excessively high temperature of the coffee and had paid at least \$500,000 to settle similar claims. So burned, McDonald's now cools its coffee by 20 degrees.

With a few more House members citing the false \$2.9 million award, the McDonald's coffee lady could ascend to the mythological heights of Ronald Reagan's Cadillac-owning welfare queen.

That the House debate was driven by hokum underscores the shallowness of the attacks against trial lawyers. If a litigation explosion exists—tort claims are only 5 percent of all civil claims—the scourge isn't lawyers working for the injured victims of corporate or medical menaces. It's lawyers of corporations suing each other.

In December 1993, the Wall Street Journal, reporting on the first ever study of lawsuit patterns of Fortune 1000 companies, stated that the real legal battlegrounds are in boardrooms: “Businesses' contract disputes with each other constitute the largest single category of lawsuits filed in federal court.” No comprehensive numbers exist for state courts.

The specter of “predatory” injury lawyers careering through the marketplace shouting “Sue, sue,” is more fakery. The Journal reported: “Product liability suits against Fortune 1000 companies have actually dropped, from a high of 3,500 in 1985 to 1,500 in 1991.”

If the emotion-driven and fantasy-based campaign against trial lawyers were a car, an immediate recall would be ordered—to halt the reckless endangerment of the public.